

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION

4 JOHN KELLEY and MARY)
5 KELLEY,)
6)
7)
8)
9)
10 Plaintiff(s),)
11 VS.)
12))
13 CITY OF SAN MARCOS, JOHN)
14 DEHKORDI, ANDREW WISENER,)
15 BASIL PIERCE and JOHN DOES,)
16)
17 Defendant(s),)
18 *****
19 ORAL AND VIDEOTAPED DEPOSITION OF
20 ANDREW N. WISENER
21 DECEMBER 21, 2022
22 (Reported Remotely)
23 *****

24 ORAL AND VIDEOTAPED DEPOSITION of ANDREW N.
25 WISENER, produced as a witness at the instance of the
1 Plaintiff(s), and duly sworn, was taken in the
2 above-styled and numbered cause on the 21st day of
3 December, 2022, from 9:45 a.m. to 1:16 p.m., via Zoom
4 video conference, before Dicie Lee Eytcheson, CSR in
5 and for the State of Texas, reported by machine
6 shorthand, at the law offices of FLETCHER FARLEY
7 SHIPMAN & SALINAS, L.L.P., 2530 Walsh Tarlton Lane,
8 Suite 150, Austin, Texas 78746, pursuant to the
9 Federal Rules of Civil Procedure and the provisions
10 stated on the record or attached hereto.

1 Q. So I -- I want to scroll down then to the --
2 towards the bottom of page 2 and do you see the
3 paragraph that begins, I drew my department-issued
4 Taser; do you see that?

5 A. Yes.

6 Q. So I want to skip to the last sentence of that
7 paragraph. So this is talking about after Mr. Kelley
8 has been tased by Officers Dehkordi and Pierce and after
9 he's on the ground, you see on that last sentence there
10 where you say, The subject resisted our attempts and
11 placed both his hands under his torso; do you see that?

12 A. Yes.

13 Q. Do you believe that that's a -- an accurate
14 description of what Mr. Kelley did with his hands after
15 he was on the ground?

16 A. Yeah. At the time that's what I had observed.

17 Q. But you wrote this report based not only upon
18 your observations but upon your review of your own
19 body-worn camera video; isn't that right?

20 A. Yes.

21 Q. And so at the time you say you thought that
22 that was an accurate description. But what about as you
23 sit here and provide testimony for the judge and for the
24 jury today, do you believe that that is an accurate
25 description of what John Kelley did with his hands while

1 notified by certified mail, return receipt requested,
2 by the deposition officer that the original deposition
3 transcript is available in Kim Tindall & Associates'
4 office for review and signature by the Witness and if
5 any corrections made are attached hereto;

6 () That upon request by the witness and/or
7 counsel, a reading condensed copy of the deposition
8 transcript along with the full-sized original Changes
9 and Signature Sheet has been sent to _____
10 on _____ for review and signature within 30
11 days and if any corrections returned are attached
12 hereto;

13 () That upon request by the witness and/or
14 counsel, the deposition officer is instructed to
15 release the original deposition transcript to
16 _____ on _____, for
17 review and signature, and the deposition officer is
18 thereafter released of any further responsibility with
19 regard to the original.

20 () That upon request by the Witness and/or
21 counsel, the Witness shall have thirty (30) days for
22 review and signature of the original transcript and if
23 any corrections returned are attached hereto.

24 () That the signed transcript () was () was not
25 received from the Witness within 30 days.

That the amount of time used by each party at the deposition is as follows:

3 Donald Puckett - 3hr:11min

4 That before the completion of the deposition, the
5 Deponent, and/or the Plaintiff/Defendant did request
6 to review the transcript.

7 I further certify that I am neither counsel for,
8 related to, nor employed by any of the parties in the
9 action in which this proceeding was taken, and further
10 that I am not financially or otherwise interested in
11 the outcome of the action.

12 WITNESS MY HAND, this the 3rd day of December,
13 A.D., 2023.

Dick Lee Eytcheson

DICIE LEE EYTCHESON, Texas CSR 5392
Expiration Date: 10/31/23
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